

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

VOCALSPACE, LLC, §
§
Plaintiff, §
§
v. § **Case No. 4:09-cv-00350**
§
DANIEL D. LORENZO and
LARKSPARK CORPORATION, §
§
Defendants. §

PLAINTIFF'S AGREED MOTION TO AMEND SCHEDULING ORDER

Plaintiff, VocalSpace LLC files this Agreed Motion to Amend Scheduling Order, and would respectfully show this Court as follow:

I. INTRODUCTION

Pursuant to the Court's Scheduling Order the deadline for filing the Joint Pre-Trial Order and Proposed Jury Instructions is March 9, 2011. Defendants requested that this deadline be moved to March 14, 2011, and Plaintiff has agreed.

II. ARGUMENT AND AUTHORITIES

“Rule 16(b) provides that once a scheduling order has been entered, it ‘may be modified only for good cause and with the judge’s consent.’” *Marathon Financial Ins., Inc. v. Ford Motor Co.*, 591 F.3d 458, 470 (5th Cir.2009) (quoting Fed. R. Civ. P. 16(b)). Rule 16(b) requires a party “to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.” *Id.* (quoting *S & W Enters., LLC v. Southtrust Bank of Ala., NA*, 315 F.3d 533, 535 (5th Cir.2003)).

In the present case, there is good cause to amend the scheduling order. A good faith effort is being made to bring this case to a conclusion. At present, however, Defendants may not be able to meet the March 9, 2011. This Motion is not brought for the purposes of delay. Rather, it is brought because good cause exists to move the current deadline for filing the Joint Pretrial Order and Jury Instructions..

III. CONCLUSION

For these reasons, Plaintiff asks the Court to grant this Agreed Motion To Amend Scheduling Order and extend the deadlines to the dates reflected in the attached proposed scheduling order.

Respectfully submitted,

/s/ Brian A. Colao
Brian A. Colao
Texas Bar No. 00793528
bcolao@dykema.com
Neal Massand
Texas Bar. No. 24039038
nmassand@dykema.com
DYKEMA GOSSETT PLLC
1717 Main Street, Suite 2400
Dallas Texas 75201
(214) 462-6400 - Telephone
(214) 462-6401 – Facsimile

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on March 9, 2011.

/s/ Brian A. Colao
Brian A. Colao

CERTIFICATE OF CONFERENCE

Counsel for Plaintiff has conferred with counsel for Defendants, on March 9, 2011 and Defendants agree to Plaintiff's request to modify the scheduling order.

/s/ Brian A. Colao
Brian A. Colao